

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Angel P., ¹)	Case No.: 0:20-cv-649-JD-PJG
)	
Plaintiff,)	
)	
vs.)	
)	
Commissioner of Social Security,)	ORDER
)	
Defendant.)	
)	

This social security matter is before the Court with the Report and Recommendation of United States Magistrate Judge Paige J. Gossett (“Report and Recommendation”) pursuant to Local Civil Rule 83.VII.02 of the District of South Carolina.² The plaintiff, Angela P. (“Plaintiff” or “Angela”), brings this action pursuant to 42 U.S.C. §§ 405(g) to obtain judicial review of a final decision of the Defendant Commissioner of Social Security (“Commissioner” or “Defendant”), finding the agency correctly recalculated the Plaintiff’s windfall-offset amount in May 2016.

The Commissioner filed a Motion to Dismiss on December 9, 2020. (DE 45.) As the Plaintiff is proceeding *pro se*, the Court entered an order pursuant to Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), advising Plaintiff of the importance of a Motion to Dismiss and of the

¹ The Committee on Court Administration and Case Management of the Judicial Conference of the United States has recommended that, due to significant privacy concerns in social security cases, federal courts should refer to claimants only by their first names and last initials.

² The recommendation has no presumptive weight, and the responsibility for making a final determination remains with the United States District Court. See *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the magistrate judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

need for her to file an adequate response with proper support. (DE 46.) On February 5, 2021, Plaintiff filed a response in opposition to the Commissioner's motion. (DE 54.)

The Magistrate Judge issued the Report and Recommendation on March 3, 2021, concluding that Plaintiff has failed to make a reasonable showing sufficient to rebut the presumption that she received the notice on August 25, 2019. Moreover, Angela has failed to demonstrate the exceptional circumstances necessary to justify equitable tolling. See Bowen v. City of N.Y., 476 U.S. 467, 479-80 (1986); see also Pace v. DiGuglielmo, 544 U.S. 408, 418 (2005) ("Generally, a litigant seeking equitable tolling bears the burden of establishing two elements: (1) that he has been pursuing his rights diligently, and (2) that some extraordinary circumstance stood in his way."); Hunt v. Astrue, No. 1:10CV141, 2012 WL 6761418, at *2 (M.D.N.C. Dec. 31, 2012). (DE 57.) Plaintiff filed no objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. Mathews v. Weber, 423 U.S. 261 (1976). The Court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objection has been made, and may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge. 28 U.S.C. § 636(b)(1). However, de novo review is unnecessary when a party makes general and conclusory objections without directing a court's attention to a specific error in the Magistrate Judge's proposed findings. Orpiano v. Johnson, 687 F.2d 44, 47 (4th Cir. 1982). In the absence of a specific objection, the court reviews the report and recommendation only for clear error. Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005)

(citation omitted); see also Tyler v. Wates, 84 F. App'x 289, 290 (4th Cir. 2003) (“A general objection to the entirety of the magistrate judge’s report is tantamount to a failure to object.”).

Upon review of the Report and Recommendation and the record in this case, the Court adopts the Report and Recommendation and incorporates it herein by reference, and it is hereby **ORDERED** that the Commissioner’s Motion to Dismiss is granted.

AND IT IS SO ORDERED.

A handwritten signature in black ink, reading "Joseph Dawson, III". The signature is written in a cursive style with a large, looped "J" and "D".

Joseph Dawson, III
United States District Judge

December 15, 2021
Greenville, South Carolina